



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,320	12/30/2003	Fernando Gonzalez	03-5421	8011

39820 7590 07/01/2005
EDWARD M. LIVINGSTON, PA
963 TRAIL TERRACE DRIVE
NAPLES, FL 34103

EXAMINER

ARK, DARREN W

ART UNIT PAPER NUMBER

3643

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/748,320	Applicant(s) GONZALEZ, FERNANDO	
	Examiner Darren W. Ark	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

MC

JS

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Senieur 142,126 in view of Brazilian Pat. No. 2001-1586 to Cauvilla and Hochberger 5,533,295.

Senieur discloses a hollow cylindrically shaped holder (A); a base pole with a second pointed end (C); means for attaching the base pole first end (B) to a location between the holder first and second ends at an angle, but does not disclose means for attaching the base pole first end to the holder at a substantially perpendicular angle. Cauvilla discloses means for attaching the base pole to the location between the ends of the holder at a substantially perpendicular angle (hexagonal structure between ends of holder). It would have been obvious to a person of ordinary skill in the art to modify the means for attaching of Senieur such that it allows the base pole to be substantially perpendicular to the holder in view of Cauvilla in order to position the pole at the desired angle and elevation relative to the water surface or due to constraints presented in the usage environment. Hochberger discloses base poles (15, 17, 19) which are hollow and made of PVC tubing. It would have been obvious to a person of ordinary skill in the

Art Unit: 3643

art to modify the base pole of Senieur such that it is hollow in view of Hochberger in order to provide a base pole which is lighter in weight and also allows soil or sand to enter therein to make a more secure anchor and facilitate the base poles insertion into the ground. Senieur does not disclose the means for attaching the base pole to the holder at a substantially perpendicular angle.

In regard to claims 2, 3, and 8, Senieur, Cauvilla, and Hochberger disclose the use of PVC pipe (PVC tubing disclosed by Hochberger).

In regard to claim 5, Senieur, Cauvilla, and Hochberger disclose the means for attaching being glue (see Hochberger col. 3, lines 31-34).

In regard to claim 6, Senieur, Cauvilla, and Hochberger discloses a set screw (S of Senieur) used to tighten the connection between the means for attaching (B) and the base pole (C), but do not disclose the means for attaching being tape. It would have been an obvious matter of design choice to utilize tape to hold the parts together, since applicant has not disclosed that by doing so produces any unexpected results or is critical to the design, and it appears that the device of Senieur, Cauvilla, and Hochberger would perform equally as well by doing so and because tape can be easily removed and reapplied as necessary to allow disassembly of the device.

3. Claims 1-3, 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Senieur 142,126 in view of Great Britain Pat. No. 2,260,249 to Clements et al. or Marten 2,371,142 and Hochberger 5,533,295.

Senieur does not disclose means for attaching the base pole first end to the holder at a substantially perpendicular angle. Clements and Marten disclose means for

Art Unit: 3643


attaching the base pole (1 OR 1) to the holder at a substantially perpendicular angle (4 OR 3 can be attached to 1 at a perpendicular angle via 4). It would have been obvious to a person of ordinary skill in the art to modify the means for attaching of Senieur such that it allows the base pole to be substantially perpendicular to the holder in view of Clements et al. or Marten in order to position the pole at the desired angle and elevation relative to the water surface or due to constraints presented in the usage environment. Hochberger discloses base poles (15, 17, 19) which are hollow and made of PVC tubing. It would have been obvious to a person of ordinary skill in the art to modify the base pole of Senier such that it is hollow in view of Hochberger in order to provide a base pole which is lighter in weight and also allows soil or sand to enter therein to make a more secure anchor and facilitate the base poles insertion into the ground.

Art Unit: 3643

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (571) 272-6885. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark
Primary Examiner
Art Unit 3643

DWA